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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,204	06/26/2001	Naoyuki Fujisawa	1538.1015	9335
21171	7590	08/10/2007		
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER LASTRA, DANIEL	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 08/10/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/891,204

Applicant(s)

FUJISAWA ET AL.

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06/04/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 06/04/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-19 have been examined. Application 09/891,204 has a filing date 06/26/2001 and foreign data 02/22/2001.

Response to Amendment

2. In response to Non Final Rejection filed 01/16/2007, the Applicant filed an Amendment on 05/14/2007, which amended claims 1-8 and 10-19. Applicant's amendment overcame the Section 112 rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6, 12 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 6, 12 and 18 recite "acquiring data regarding said particular packet data which is not received by a particular destination user and specifying destination users who are confirmed to have performed said processing to receive said particular packet by excluding said particular destination user based on said data regarding said packet which is not received by said particular destination user". Said claim is indefinite because it is not clear from what said particular destination user is excluded from.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto (US 2005/0102205) in view of Applicant's background of the invention.

As per claims 1, 7, 13 and 19, Yamamoto teaches:

A method, *executed by a computer independent from a terminal of a user*, for transferring a communication fee, *said method* comprising:

registering into a transmitting information storage device, information regarding destination users, a sender, and a particular packet data to be sent (see paragraph 46);

after a terminal of said destination user registered in said transmitting information storage device performs a processing to receive packet data that may include the particular packet data, *and a first communication fee* for the received packet data is *charged to said destination user* (see paragraphs 102-105),

calculating an amount of second communication fees charged to said destination users for said particular packet data, by using a number of packets of said particular packet data and a number of destination users specified by receiving status data for said particular packet data to be received by said terminals of said destination users registered in said transmitting information storage device, wherein said number of packets of said particular packet data is calculated from said particular packet data stored in said transmitting information storage device (see paragraphs 102-105);

performing a processing to exempt the specified destination users from said second communication fee having been charged for said particular packet data (see paragraphs 102-105); and

performing a processing to charge said sender registered in said transmitting information storage device for said amount of said second communication fees having been charged to said specified destination users (see paragraphs 102-105).

Yamamoto does not expressly teach wherein said charging said destination user is carried out without *being judge* whether or not said received packet data includes the registered particular packet data. However, Applicant's background of the Invention teaches that it is old and well known in the communication art to charge a portable terminal user for receiving messages according to Data Terminal Equipment without distinguishing what particular packet data is received in said messages (see Applicant's background and also pages 5 and 8 where it says "same as the background art"). Therefore, it would have been obvious to person of ordinary skill in the art at the time the application was made, to know that Yamamoto would bill a mobile terminal user on a per message basis without distinguishing if said messages are personal or informational, as it is old and well known to do, as taught by Applicant's background.

As per claims 2, 8 and 14, Yamamoto teaches:

The method set forth in claim 1, further comprising:

wherein a third communication fee for the sent particular packet data is charged to said sender when said particular packet data is transmitted to the destination users registered in said transmitting information storage device (see paragraphs 102-105).

As per claims 3, 9 and 15, Yamamoto teaches:

The method set forth in claim 1, wherein said registering comprises:

registering information regarding said sender and said particular packet data to be sent into said transmitting information storage device; and registering information regarding said destination users into said transmitting information storage device (see paragraph 46).

As per claims 4, 10 and 16, Yamamoto teaches:

The method set forth in claim 3, wherein said particular packet data includes Web page data, and said registering information regarding said destination users includes a step of registering information regarding said destination user that is acquired when a terminal of said destination user requests said particular packet data (see paragraphs 102-105).

As per claims 5, 11 and 17, Yamamoto teaches:

The method set forth in claim 1, wherein said *calculating* comprises:

specifying destination users whose terminals are confirmed to have performed said processing to receive said particular packet data among said destination users registered in said transmitting information storage device (see paragraphs 102-105);

said performing said processing to exempt comprises registering into a charge information storage device, said second communication fee as an exempted charging fee of said specified destination user having been charged for said particular data (see paragraphs 102-105), and

said performing said processing to charge comprises registering into said charge information storage device, said amount of said second communication fees as a charging fee charged to said sender registered in said transmitting information storage device (see paragraphs 102-105).

As per claims 6, 12 and 18, Yamamoto teaches:

The method set forth in claim 1, wherein said *calculating* comprises:

acquiring data regarding said particular packet data which *is not received by a particular destination user* and specifying destination users who are confirmed to have performed said processing to receive said particular packet *by excluding said particular destination user* based on said data regarding said packet which *is not received by said particular destination user* (see paragraphs 102-105). Yamamoto calculates the communication fees for received data so the data not received by users would not be counted in the billing process.

Response to Arguments

5. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W. STAMBER can be reached on 571-272-6724. The official Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL
Daniel Lastra
July 31, 2007


RAQUEL ALVAREZ
PRIMARY EXAMINER